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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,061	11/20/2006	Wilhelm Maurer	635.45828X00	7472
20457 7590 10/28/2009 ANTONELLI, TERRY, STOUT & KRAUS, LLP 1300 NORTH SEVENTEENTH STREET SUITE 1800 ARLINGTON, VA 22209-3873			EXAMINER CHIN SHUE, ALVIN C	
			ART UNIT 3634	PAPER NUMBER
			NOTIFICATION DATE 10/28/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/568,061	<b>Applicant(s)</b> MAURER ET AL.	
	<b>Examiner</b> Alvin C. Chin-Shue	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/13/06</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following phrases lack antecedent basis; “the handles”, as set forth in claim 9, “the two consoles, and “the other climbing aid”, as set forth in claim 20, and “the force transmitting elements”, as set forth in claims 11,13 and 14. It is unclear if the ”component accommodating force transmitting” and “the force transmitting component” are the same or different elements, as set forth in claims 1 and 17, and if they are different elements what is the force transmitting component? In claim 11, is “at least one force transmitting element” a different element from that recited in claim 1 as suggested?

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7,10-15,17,19,26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Bixby. Bixby shows an arrangement for the ascent and/or descent of one or a plurality of persons on an object, characterized by at least one

longitudinally extended rail-like profile 24 having at least one guide component extending along the profile and a component for the accommodation of force transmission 26 onto the profile and/or guide component, and by a climbing aid having at least one climbing console having at least one platform 27 or seat as well as a personal safety device and/or a handle 38, as well as at least one force-transmitting element 29 engaging in or on the force-transmitting component and/or profile and/or a drive 28, as well as a device holding the element or drive in or on the at least one guide component and/or profile and retaining bars at 36.

Claims 1,7,14,15,28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Bernett. Bernett shows an arrangement for the ascent and/or descent of one or a plurality of persons on an object, characterized by at least one longitudinally extended rail-like profile 11 having at least one guide component 12 extending along the profile and a component for the accommodation of force transmission 13 onto the profile and/or guide component, and by a climbing aid 14 having at least one climbing console having at least one platform or seat 57 as well as a personal safety device and/or a handle 56 or 50, as well as at least one force-transmitting element 25 engaging in or on the force-transmitting component and/or profile and/or a drive 45, as well as a device holding the element or drive in or on the at least one guide component and/or profile.

Claims 1,7,8,28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Ho in fig. 9 and 71 in fig. 1, with respect to claim 8.

Claims 1 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Aguilar. Aguilar shows a harness at 51.

Claims 1,7,9,28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Ho in fig. 9 and 71 in fig. 1, with respect to claim 8.

Claims 1,6,7,11,14,15,17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Freeman. Freeman shows an arrangement for the ascent and/or descent of one or a plurality of persons on an object, characterized by at least one longitudinally extended rail-like profile at 18 having at least one guide component at 37 extending along the profile and a component for the accommodation of force transmission at 96 onto the profile and/or guide component, and by a climbing aid 15 having at least one climbing console having at least one platform or seat as well as a personal safety device 12 and/or a handle, as well as at least one force-transmitting element 38 engaging in or on the force-transmitting component and/or profile and/or a drive 14, as well as a device holding the element or drive in or on the at least one guide component and/or profile, centrifugal brake 100, control at 67 and generator 68.

Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Ready.

Ready shows profiles at 16, drives at 40, consoles at 30.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schworer. The examiner takes OFFICIAL NOTICE that the provision of controls on handles is conventional, and the use of generators for feeding current to rechargeable battery pack that operate drive motors is conventional. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Schworer to comprise handles with his control and for his motors to be operated by generators and rechargeable battery packs, as set forth in claim 22, in view of the conventional teachings.

Claims 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ho or Ready in view of Schworer. Ho at 71 in fig.1 and Ready show the claimed arrangement with the exception of the automatically controlled drive to enable alternating drive of the consoles. Schworer teaches automatically controlled drives to enable alternating movement of consoles. It would have been obvious to one of

ordinary skill in the art at the time the invention was made to modify either Ho or Ready for his climbing aids 71 or 30, respectively to comprise automatically controlled drives, as taught by Schworer, to enable alternating movement of this aids. The examiner takes OFFICIAL NOTICE that the provision of controls on handles is conventional, and the use of generators for feeding current to rechargeable battery pack that operate drive motors is conventional. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ho to comprise handles with his control and for his motors to be operated by generators and rechargeable battery packs, as set forth in claim 22, in view of the conventional teachings.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ho in view of Schworer and Freeman. Ho at 71 in fig.1 shows the claimed arrangement with the exception of the automatically controlled drive to enable alternating drive of the consoles. Schworer teaches controlled drives to enable alternating movement of consoles. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ho for his climbing aids 71 to comprise controlled drives, as taught by Schworer, to enable alternating movement of this aids.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 571-272-6828. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alvin C. Chin-Shue



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Primary Examiner  
Art Unit 3634

/Alvin C. Chin-Shue/  
Primary Examiner, Art Unit 3634